

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

21 CR 221 (SHS)

5 SHEINA LEVIN,

6 Defendant.

Sentence

-----x

7
8 New York, N.Y.
September 27, 2023
9 2:50 p.m.

10 Before:

11 HON. SIDNEY H. STEIN,

12 District Judge

13 APPEARANCES

14 DAMIAN WILLIAMS

15 United States Attorney for the
Southern District of New York

16 BY: DAVID ABRAMOWICZ
Assistant United States Attorney

17 MICHAEL C. FARKAS

18 GEORGE A. FARKAS
Attorneys for Defendant

19
20 Also Present:

Jeffrey Freeman - NYC Department of Investigation

1 (Case called)

2 MR. ABRAMOWICZ: Good afternoon, your Honor, David
3 Abramowicz for the government. I am joined at counsel's table
4 by senior investigative auditor Jeffrey Freeman of the New York
5 City Department of Investigation.

6 THE COURT: Good afternoon.

7 MR. M. FARKAS: Good afternoon, Michael Farkas, and I
8 am joined at counsel table by the senior partner, my father,
9 George Farkas, as well as Ms. Levin.

10 THE COURT: Good afternoon. You may be seated.

11 Let me tell you what information I have. I have the
12 presentence report prepared on July 31 of this year and revised
13 on August 31, and that contains the addendum and conclusion by
14 the probation department that the appropriate offense level is
15 19, the criminal history category is I. The guideline range is
16 30 to 37 months. The recommended sentence by the probation
17 department is 12 months on the basis of a variance.

18 I have the defendant's sentencing submission of the
19 Messrs. Farkas, which is 33 pages, and it requests and it says:
20 Either of the proposed incarceratory sentences. According to
21 the sentencing proposals set forth on page 32 of 33, the
22 defense is seeking a sentence of probation with continued
23 community service, spiritual counseling, marriage and family
24 therapy and psychotherapy. And it states alternatively:
25 Should the Court deem a more restrictive component to be

1 necessary, the defense requests a period of home detention
2 under the same conditions and any others deemed appropriate by
3 the Court and the probation department.

4 Attached to the defendant's submission are scores and
5 scores of letters and a submission by the Aleph Institute and
6 a -- I am trying to find the doctor's name -- it's a
7 psychological evaluation -- all of the attachments of the
8 sentencing submission, and I have read them.

9 And, in addition, I have the submission of the
10 government, dated September 13, which is ECF document 81; the
11 PSR is ECF document 79. And in the government's submission,
12 dated September 13, which, as I say, is ECF document 81, the
13 government submitted that a sentence of probation that includes
14 a period of home confinement would be sufficient but not
15 greater than necessary to serve the legitimate purposes of
16 sentencing.

17 I was actually quite surprised that that was the
18 recommendation of the government.

19 Mr. Farkas, is there any additional written
20 information I should have?

21 MR. M. FARKAS: No, sir.

22 THE COURT: Government, is there any written
23 additional information I should have?

24 MR. ABRAMOWICZ: No, your Honor.

25 THE COURT: Mr. Farkas, have you and your client read

1 and discussed all of this information?

2 MR. M. FARKAS: Yes, your Honor.

3 THE COURT: Do either you or your client have any
4 objections to the findings of fact in the presentence report?

5 MR. M. FARKAS: No objections. Just the notes that I
6 have made in my submission. I think in my submission I pointed
7 out some relatively minor factual differences, such as ages.

8 THE COURT: Let me ask this. Let's go through it. I
9 don't know how many there are, but it seems to me what you are
10 saying is, essentially you don't have any objections to the
11 findings of fact. If you do, let's hear them.

12 MR. M. FARKAS: I don't.

13 THE COURT: Government, do you have any objections --
14 Mr. Farkas, this went both to you and to your client. You
15 understood that?

16 MR. M. FARKAS: Yes, your Honor.

17 THE COURT: Government, any objections to the findings
18 of fact?

19 MR. ABRAMOWICZ: No, your Honor.

20 THE COURT: I adopt the findings of fact.

21 Mr. Farkas, in your presentation, if there is anything
22 you want to bring to my attention in that regard, let me know,
23 but I gather you view your objections as not material to the
24 sentencing decision.

25 Is that what you were telling me?

1 MR. M. FARKAS: I agree, your Honor. Thank you.

2 THE COURT: Again, for the record, I adopt the
3 findings of fact in the presentence report.

4 Mr. Farkas, why don't you tell me what it is that you
5 want me to know. Again, I have read every single one of these
6 letters and all of the information in your submission. But you
7 can tell me whatever it is you want.

8 MR. M. FARKAS: With regard to the PSR, your Honor, or
9 with regard to sentencing in general?

10 THE COURT: With regard to sentencing, anything you
11 want me to know, including what's in the PSR, if you want to
12 respond to that.

13 MR. M. FARKAS: I guess, just on a technical level,
14 with regard to the PSR, I will note that in the government's
15 submission, they do consent to having the applicable guideline
16 range reduced to a level 17 with an applicable range of 24 to
17 30.

18 THE COURT: Let me respond to that because that's
19 worthwhile.

20 MR. M. FARKAS: Yes, your Honor.

21 THE COURT: The 4C1.1 change hasn't taken effect. It
22 takes effect on November 1. I am perfectly prepared to
23 sentence this defendant as if it was 17 and I, with a guideline
24 range of 24 to 30 months, as opposed to what the presentence
25 report has found, which is 19 and I and a guideline range of 30

1 to 37.

2 But because this is prior to November 1, my intention
3 at this point, subject to what you are going to tell me, is
4 that the offense level will be 19, the criminal history
5 category will be I, the guideline range will be 30 to 37, but
6 my sentence is going to be the same, regardless of whether it
7 was 19 and I or 17 and I.

8 Are we on the same wavelength?

9 MR. M. FARKAS: 100 percent, your Honor.

10 THE COURT: Government, you're with me?

11 MR. ABRAMOWICZ: Yes, your Honor.

12 THE COURT: Proceed.

13 MR. M. FARKAS: Thank you, your Honor.

14 THE COURT: Just to guide you, I was surprised at the
15 government. It was a more lenient recommendation than I
16 thought the government would recommend. Given that the parties
17 are pretty close to each other, if not absolutely congruent, I
18 don't think that I am going to deviate in any material respect
19 from that, so that should give you serious -- hear what I have
20 to say. Go ahead.

21 MR. M. FARKAS: Your Honor, certain senior counsel who
22 might be sitting at the table taught me, as a young attorney to
23 quit while he's ahead.

24 THE COURT: I think that's appropriate.

25 MR. M. FARKAS: If your Honor --

1 THE COURT: I don't want to mislead you. It's not
2 going to be exactly what the parties are asking for.

3 MR. M. FARKAS: That's quite all right. I have
4 nothing to say that has not been articulated in my very
5 extensive submission. As you can see, I took great care to put
6 everything I had into the submission. I'll dare say that it is
7 more lengthy and extensive than most of my submissions have
8 ever been, and that's not to devalue any of my other client's
9 cases.

10 Just, this was a very compelling and moving case for
11 me personally, as well as professionally, worthy of meeting Ms.
12 Levin and seeing how she approached this case from the day she
13 walked into my office, seeing how Aleph embraced her, seeing
14 what she has done ever since. It has been extraordinary in
15 every sense of the word.

16 I don't have anything to add that your Honor hasn't
17 already very faithfully considered in my submission. I was
18 going to highlight some points, but again, I'm quitting while
19 I'm ahead.

20 Rabbi Brysky from Aleph is here today to discuss not
21 only his impressions of Ms. Levin and her efforts since they
22 began working with her, but also the details of his alternate
23 sentencing proposal, which again have been laid out in my
24 submission, but he obviously has a more personal perspective to
25 share about that.

1 I can appreciate that your Honor is considering a
2 sentence that while it may be similar to what the government
3 and I are proposing, that you may have other concerns and
4 ideas, so to speak. We are available to answer questions that
5 you might have with regard to that.

6 But I think what we are seeking is pretty clear, and
7 we have tried to present you with a comprehensive proposal to
8 ensure all of the purposes and tenets of sentencing.

9 THE COURT: If you want Mr. Brysky to speak, I
10 certainly will listen to him, but I certainly am not going to
11 outsource supervision to a private organization.

12 MR. M. FARKAS: Right. I am glad you mentioned that,
13 your Honor, because one of the things I wanted to mention was
14 that I didn't mean to suggest that.

15 THE COURT: That's exactly what you are requesting,
16 because you want the two proposed institutions to be what the
17 Aleph Institute has suggested, and indeed you say, under
18 supervision. I don't know if you used that word. But that's
19 exactly what you are asking me to do.

20 MR. M. FARKAS: From my perspective, your Honor, call
21 this perhaps a bit more of a state court perspective, when
22 someone is on probation as being supervised by the probation
23 department, they are going to choose certain providers for
24 therapy, for community service, for what have you.

25 Our proposal is that at least to include these

1 extensive proposals in probation's overview and supervision so
2 that the community service that she would be performing, which
3 she is actually currently performing and is committed to
4 continue performing, for example, through Aleph would continue
5 under the supervision of not only Aleph but the probation
6 department, in addition to whatever conditions that your Honor
7 and probation may feel are additionally necessary.

8 THE COURT: I do note that her volunteer work with
9 those two organizations commenced at or about the time of the
10 plea, is that correct?

11 MR. M. FARKAS: Those are the most recent, your Honor,
12 yes. She has continued -- there are so many efforts, it's hard
13 to list them.

14 THE COURT: She has had a life of a great deal of
15 service to her community, no question about that. The
16 references to the two service positions that she has held under
17 the aegis of Aleph were at or shortly after the time of her
18 plea.

19 MR. M. FARKAS: That is correct, your Honor. After
20 getting to know her and forming a proposal and a paradigm that
21 would be, in everyone's opinion at Aleph, most appropriate for
22 her, this is what was constructed and that is where that came
23 from.

24 THE COURT: If you want somebody else to speak to me,
25 go ahead.

1 MR. M. FARKAS: I'd like to introduce Rabbi Yossi
2 Brysky, who is the chair of the alternate sentencing for Aleph.

3 MR. BRYSKY: Good afternoon, your Honor.

4 THE COURT: Good afternoon, sir. Welcome.

5 MR. BRYSKY: Thank you.

6 I may look like some of Sheina's relatives here in
7 court, but I help many others who don't look like me or
8 practice the same faith as me.

9 THE COURT: That may be true, sir. I have no reason
10 to doubt it. But I can tell you that in my years of
11 experience, to my recollection, Aleph has never made a
12 recommendation for any defendant, except those who are Orthodox
13 Jews.

14 MR. BRYSKY: Your Honor, that is probably very
15 close -- that is probably how it works here in New York. I
16 zigzag the country advocating for individuals all over the
17 country that are -- as long as they are ready to sign up for
18 our program. It happens to be that a lot of the people here in
19 New York do know about me.

20 I lived in Crown Heights, Brooklyn for 23 years. I
21 never met Ms. Levin before in my life. When I found out, when
22 she told me that she had pled guilty, that's when we step in,
23 as long as they are pleading guilty with sincere remorse and
24 they are ready to enter our program. We have had defendants
25 who would say they would rather go to prison for a couple of

months than follow through with our intense program.

THE COURT: Even when they do go to prison, I normally have a request from the defense, I think it's to be put in the prison in the area of the Bureau of Prisons that encompasses Florida, because I think you have some programming down there, if I'm not mistaken.

MR. BRYSKY: That's correct. We have a headquarters in California and Brooklyn as well.

When people call, we are not the go-to organization for anyone who is enmeshed in the criminal justice system. If someone calls me and, says here is my story but I'm absolutely innocent, I recommend they get a very good lawyer. If they tell me they pled guilty because as a matter of convenience they don't to want to go to trial, costs too much, I will tell them to get a very smooth-talking lawyer for sentencing.

If someone calls, like Sheina did, and her voice is cracking when she is talking about the victims and she is reading her psych report that we asked her to do, she is reading the mitigation narrative that we asked her to help draft, then she is looking at herself in the mirror and she is recognizing that this is something that she needs to work on. She needs to step it up. She studies classes with me on a weekly basis. We study teachings based on Maimonides and going beyond the letter of the law.

All I'm asking from this Court is that, of course, as

1 counsel mentioned, probation is meant to supervise all of her
2 activities as the Court decides, but ultimately we do work with
3 probation on the specifics of -- if probation would like to
4 work with us, we try to meet with the chief whenever we can in
5 various districts. Ultimately we are working with them to make
6 sure those hours are meaningful hours, which she already is
7 doing, and we are simply asking the Court that the Court not
8 interrupt this process that is rehabilitative and benefiting
9 society.

10 Your Honor, thank you very much for allowing me to
11 address the Court.

12 THE COURT: Thank you, sir. I appreciate your coming
13 here to tell me what you do.

14 Mr. Farkas, is there anything else you wish to say?

15 MR. M. FARKAS: No, your Honor. Subject to your
16 questions, that is my presentation.

17 THE COURT: Thank you.

18 Let me hear from the government.

19 MR. ABRAMOWICZ: Thank you, your Honor.

20 We too will largely rest on our submission, although I
21 do want to respond to -- your Honor is surprised at our
22 sentencing recommendation. I'd like to emphasize that it's not
23 a recommendation we came to lightly. It certainly was a very
24 close call, given the nature of the offense here. This is a
25 serious offense. It obviously harms the organization involved,

1 BPHN. It harmed essential services for people in need.

2 THE COURT: It harmed everybody because inevitably, as
3 a result of this crime, what people do is, they lose confidence
4 in the ability of the government, specifically the City of New
5 York, to administer programs that help the poor and
6 underprivileged. So she has undercut her own mission.

7 MR. ABRAMOWICZ: That's exactly right, your Honor.

8 THE COURT: This crime has ripple effects.

9 MR. ABRAMOWICZ: It certainly does and it does
10 undermine public trust, and we see --

11 THE COURT: In fact -- go ahead. I'm sorry.

12 MR. ABRAMOWICZ: And we see that it's not an isolated
13 problem. It's a problem that has plagued New York City for
14 years and it's a problem that, as your Honor knows --

15 THE COURT: It's not limited to Mr. Rivera here.

16 MR. ABRAMOWICZ: Exactly. It's not limited to
17 Mr. Rivera and Ms. Levin. It's a problem that others have
18 fallen into as well. We understand that, and we take that very
19 seriously.

20 The offense is serious. There is a need for general
21 deterrence, given the number of especially private contractors
22 and businesses involved in providing these services and the
23 amount of money there is to be had. And there certainly needs
24 to be an understanding out there that back-room deals involving
25 corruption won't be tolerated, and we think we have shown our

view on that with this prosecution and others, including before your Honor.

To explain our recommendation a little bit, we did feel that the mitigating factors here were extremely strong and unusual, beyond the scope of what we usually see.

I just want to emphasize the ones I'm focused on. This was an early plea, in our view. It was before indictment. It was before any discovery was produced or requested. It did follow what we consider a sincere effort to cooperate by Ms. Levin, although we did not extend a cooperation agreement to Ms. Levin, and we are not making 5K1.1 requests for a departure.

THE COURT: My sentence is not going to be based on a departure. It's going to be based on a variance.

MR. ABRAMOWICZ: Exactly, your Honor.

We are not making that request because we ultimately did not require the substantial substance, but I will acknowledge that her efforts to cooperate were sincere, and we credited what she told us.

Finally, there is a financial component here.

THE COURT: As I understand it, the agreed upon restitution will be paid rather quickly from the escrowed funds, which are more than the agreed-upon restitution.

Am I correct in that?

MR. ABRAMOWICZ: Yes, I believe they are more, and it

1 is our position that they will be and should be paid promptly.

2 THE COURT: I am going to direct that they be paid
3 promptly.

4 MR. ABRAMOWICZ: It's significant, in our view, that
5 it is Ms. Levin who is paying it, even though she is jointly
6 and severally liable with the person we considered to be more
7 culpable of the coconspirators, which is Victor Rivera.

8 THE COURT: I agree. In the scheme of this
9 indictment, he is more culpable, that's correct.

10 MR. ABRAMOWICZ: Those are the factors driving our
11 recommendation here.

12 I do want to note that I share your Honor's -- what I
13 detected are concerns with the prospect of any sort of
14 outsourcing of the supervision or of any probation. So it's
15 certainly our view that the Court should not deviate from its
16 typical practices and its typical reliance on the probation
17 office.

18 THE COURT: Mr. Brysky has put my concerns to rest
19 there.

20 MR. ABRAMOWICZ: Good.

21 With that, I think that's all I have, your Honor,
22 unless you have any questions.

23 THE COURT: Thank you. No.

24 Ms. Levin, you have the right to speak to me. You
25 don't have to say anything at all. And I do need to tell you

1 that anything you say may be used against you, but I'm here to
2 listen to anything you want to tell me.

3 I am going to ask that you rise out of respect for the
4 institution, if you are able.

5 MR. M. FARKAS: Your Honor, if Ms. Levin may, she has
6 prepared remarks to be written down. She is nervous. It would
7 help her --

8 THE COURT: Of course. You can read it. I just need
9 you to tell me -- of course your lawyer could certainly help
10 you with those remarks. I just need you to tell me that
11 everything you are about to tell me is true.

12 THE DEFENDANT: Yes, it is.

13 THE COURT: Please. I'm here to listen to anything
14 you want to say.

15 THE DEFENDANT: Your Honor --

16 THE COURT: Take your time. It's difficult, I'm sure.

17 THE DEFENDANT: Thank you. I appreciate that.

18 Thank you for giving me this opportunity to speak.
19 Just two days ago was Yom Kippur, the holiest day of the year
20 on the Jewish calendar, a day of complete atonement before God.

21 As wholly and as solemn as that day is, my own
22 personal Yom Kippur began well before March 9, 2023, when I
23 came before you publicly acknowledging my wrongdoing.

24 It began back in February of 2021, when I was first
25 contacted by Mr. Abramowicz and faced a reckoning unlike

anything I had ever experienced in my life.

I started on the day to beg God, the government, and anyone I may have hurt so deeply for forgiveness and a second chance. To try to earn that kind of deference, I have attempted to show who I truly am, and pour every ounce of effort into doing just that.

For two and a half years leading up to this day I have one immense self-reflection. I have spent this time in prayer and meditation, trying not only to understand how I came to this point, but on owning my actions and taking responsibility for them. It has been a time of deep introspection, listening and learning. I ask myself constantly, what does God envision for me? How do I grow through this devastating experience? How do I reconnect with the voice inside of me that knows the difference between right and wrong?

Growing up as a little girl, all I dreamed about was making the world -- this world a better place, and I put my whole heart into doing that. Giving of myself, being involved in my community, and helping anyone in need comes as second nature to me. My parents taught me first and then my children continue to teach me to love the person standing in front of me, to be a listening ear, to care, to put people's welfare first, to open my home and my heart to those in need.

When I reflect on my crime and how I got here, I become physically ill. I don't recognize myself. I have

shattered myself and everyone around me. My body trembles at the thought of possibly not being able to care for my elderly parents, my husband, my children, my grandchildren, and all those who depend on me.

My time reflecting on all of this horror, however, has brought out something deep inside of me that will be with me forever. I am the better person for it.

I know that my attorneys have presented a lot of information to you demonstrating who I truly am. My passion is contributing to society in any way I can. I live to help others. I have messed up really badly, and I will spend the rest of my life atoning for this. I take full responsibility for my criminal behavior -- for the criminal behavior I have committed. Not a day will go by where I won't use this dark time and immense pain that I have caused to deter others from straying as I did. I plead from the bottom of my heart to allow me to stay on the straight and narrow path of caring for my family, my parents and continuing my life in the most humble and ethical of ways.

With immense gratitude for your compassion, again, I thank you, your Honor.

THE COURT: Thank you.

Let me ask this, Ms. Levin. Some people don't have an answer. I don't want you to make up an answer. But if you engaged in reflection, why did you do this?

1 You can talk to your attorney.

2 What led you to do this?

3 THE DEFENDANT: There were a lot of things that led up
4 to the relationship. It started out as a normal business
5 relationship. And I saw Mr. Rivera as somebody who was 30
6 years in recovery, in sobriety, really working with people,
7 and, by nature, a very trusting person. And it went from
8 regular business to a situation where -- from a for profit to
9 the not for profit. I don't even think I realized how it was
10 changing until it did.

11 THE COURT: The kickbacks were described as consulting
12 fees, so you knew full well that when you are getting money
13 back to him, it wasn't on the up and up. And I know you were
14 very successful in the real estate business, so I assume you
15 were a sophisticated business woman.

16 THE DEFENDANT: I was paying him from my pocket.

17 THE COURT: No, no. You were paying him from the
18 Bronx Parents Housing group's pocket.

19 I want you to address me.

20 THE DEFENDANT: I didn't understand that's what I was
21 doing. My -- the difference between the lease and the sublease
22 was the profit that I was -- was the money that I was making
23 and, I didn't understand that it might have been money that
24 could have gone or should have gone to BPHN because the numbers
25 that I negotiated --

1 THE COURT: Then why did you put it down as consulting
2 fees?

3 THE DEFENDANT: I don't know. There was no logical --

4 THE COURT: I want you to talk to me.

5 THE DEFENDANT: I understood by that point that I
6 wasn't allowed to pay him. And this was his -- I don't even
7 know how to answer it.

8 THE COURT: I take it you see that as a major mistake.

9 THE DEFENDANT: Yes, I do. As a major -- I have told
10 my children many, many times and anybody I see, sometimes you
11 think that -- you are not sure if what you are doing is right
12 or wrong. The second you feel that it's wrong, you need to
13 stop. You need to listen to that part of you that says no.
14 Don't let someone convince you that it's fine.

15 And I will regret it for the rest of my life. And the
16 possible pain that I can cause my parents is killing me, and I
17 would never -- this is truly against my nature and my
18 personality, and I got caught up in something that I didn't
19 quite understand at the time and then I understood.

20 I am very, very sorry and remorseful for anything that
21 I did, anything that I have done. I have spent my life and my
22 career helping people.

23 THE COURT: I think that's true, and I think you are
24 very remorseful, and all of these letters are a testament to
25 your efforts throughout the years to help your community and

others, no question about that.

THE DEFENDANT: What I do for a living is, I help the community that doesn't have a voice. This is what I do. I'm in real estate, and I could have easily gone to the gentrification of real estate, and I didn't. My heart didn't let me. I became known in the industry as, oh, yeah, she does programs. That was who I am. I'm the one you go to if you want your apartments rented to programs, if you want to work with nonprofit organizations. That's what I do. And I love doing it. I love helping.

I met a guy on the street the other day, a young boy from our community who was definitely -- I don't know if tomorrow he will be alive. I said, whoa, I can't just leave him in the street. I bought him lunch, and I sent him to the shelter. I spoke to SUS, who is Services for the Underserved and I said, I'm sending him in an Uber to you. Please let me know when he gets there, and we need to arrange for services for him, or he won't survive.

This is what I do. I wasn't doing anything that was unusual for me. So when I see organizations doing that, I was very excited and very happy to be a part of it. That's who I really am. That's who I want to be. I'm very grateful that God let's me do that to make a living.

THE COURT: I don't mean to break you at all, but the fact of the matter is, in the course of your doing that, you

1 committed a serious crime by depriving the Bronx Parent Housing
2 Network of \$800,000 that otherwise would have gone to them, or
3 if you don't view it that way, as simply you were illegally
4 kicking back to Rivera \$800,000.

5 THE DEFENDANT: That's what I thought. That's what I
6 realized I was doing. It wasn't money that would have gone
7 back to Bronx Parent Housing Network. It wasn't money that
8 they would have gotten.

9 THE COURT: Thank you.

10 MR. M. FARKAS: Your Honor, would you mind if I
11 elaborated on that last point?

12 THE COURT: Go ahead. It is money they would have
13 gotten if it were an arm's length negotiation that Rivera had
14 not put his thumb on and not found a willing cooperator in
15 connection with the conspiracy and Ms. Levin.

16 MR. M. FARKAS: 100 percent, your Honor. This is the
17 one small area.

18 THE COURT: You say 100 percent. Make sure Ms. Levin
19 understands that because she seems to think that it was coming
20 out of her pocket.

21 MR. M. FARKAS: That is how she perceived it at the
22 time, your Honor. That is what Ms. Levin perceived at the
23 time. I don't think it's unusual for someone in her position
24 years ago to have proceeded that way mistakenly. It does not
25 detract from the knowing wrongfulness of the act. If your

Honor --

THE COURT: Again, I certainly don't mean to berate her, and she has done an enormous amount of good in her life, and I have every reason to believe will continue to do so, serving her community and others on a constant basis -- I have read all the letters -- opening her home throughout the world, constantly assisting them in a variety of ways, welcoming and supporting scores and scores, probably hundreds of people, having an open home for meals and for people to sleep in. I was wondering how she could do that with "only" five bedrooms, but one of the letters says they slept on the floor. That made more sense when I read that.

But there is no question about her remorse and there is no question about her early cooperation with the government. The government has already spoken to that. But I'm not sure she really understands the ripple effects of the loss of confidence in the antipoverty programs that her participation is subject to.

MR. M. FARKAS: There is no doubt, your Honor. It's funny because this is the exact point that Mr. Abramowicz and I started speaking about the moment we met and brought us all through the government's recommendations. This has probably been the subject of more discussion than any other point, at the time she committed the wrongdoing, knowingly paying Mr. Rivera, when it was wrong and illegal to do so. There is

1 no doubt that she -- that's why she pleaded guilty, because she
2 was paying kickbacks that she knew she was not allowed to pay.

3 THE COURT: And, quote, hiding them all, although it's
4 not very well hidden as consulting fees.

5 MR. M. FARKAS: Because she knows that they couldn't
6 be direct payments to him for anything else because it's not
7 legal.

8 The question of appreciating how this was taking money
9 out of -- even theoretically or practically out of BPHN's
10 coffers and therefore the city's coffers is not a point that
11 she appreciated at the beginning of this process or certainly
12 when she committed the act, because her lay, logical thinking
13 was, the city is paying a fair, in fact a very competitively
14 fair market value rate.

15 THE COURT: I am surprised the contract apparently
16 wasn't changed.

17 MR. M. FARKAS: That is a major point that I made in
18 the submission.

19 THE COURT: I think that probably goes to negligent
20 oversight by the city, but I understand how you are using it.

21 MR. M. FARKAS: I did anticipate you saying that. The
22 civil attorney who negotiated that, at very, very difficult
23 effort with the city, he is actually sitting in the courtroom
24 today to back me up in case I say something that doesn't make
25 any sense. But this was so heavily discussed and fought over

1 intellectually with the city, it's not negligent oversight,
2 your Honor.

3 The bottom line is that the city obtained, like it had
4 hundreds and hundreds of times before and since, a proper rate
5 to house this homeless population in these buildings.

6 If Ms. Levin had decided to act legally and say no to
7 Victor Rivera when he said where is my cut, then the exact same
8 conditions and terms would be continuing to this day, and BPHN
9 would never receive any part of Ms. Levin's end, so to speak,
10 from the contract. It was her illegal act of paying him THE
11 kickbacks that now even created this theoretical deprivation to
12 BPHN of these hundreds of thousands of dollars. Because had
13 this contract proceeded legally, had Victor Rivera never said,
14 give me my end, and Ms. Levin said yes, no other money would be
15 going to BPHN.

16 So in her mind at the time, paying him out of her end,
17 I think is understandable that she wouldn't appreciate how that
18 has now deprived BPHN and the city of something. Of course we
19 know, as attorneys and jurists, that that is correct. She has
20 come to appreciate that now.

21 But in answering your Honor's question about whether
22 she appreciated it at the time, I thought she was very honest.
23 She didn't. She didn't get it. It has taken a lot of soul
24 searching and a lot of legal explanations to explain what that
25 impact is, as well as the broader, perhaps the most important

1 impact, and that is on the integrity and the public's trust of
2 the system, be it not for profit or for profit.

3 My discussions with Mr. Abramowicz focused on and
4 began and ended with this point. He will tell you, in our
5 first meetings he was like, what are you talking about? It's
6 obviously their money.

7 THE COURT: Their being BPHN.

8 MR. M. FARKAS: BPHN, right.

9 The contract should have been reduced by half, or
10 whatever the percentage is.

11 And although he isn't saying something differently
12 completely now, I think we all agree that the contract had --
13 has never been and will never be half. It was simply
14 Mr. Rivera acting illegally that deprived that organization of,
15 even theoretically, more money, and now, of course, Ms. Levin
16 understands that.

17 And I don't think enough can be said about how she
18 handled the dispute with the city and BPHN that really
19 demonstrates who she is, your Honor. I made this point too,
20 but I don't know if it really came through. Ms. Levin --

21 THE COURT: It did. The monies are in escrow. I
22 understand that.

23 MR. M. FARKAS: It goes well beyond that. What she
24 did was great. She is a criminal defendant. She is facing a
25 criminal case. It's a good thing to get money in escrow to pay

1 the restitution. It will look good for her at sentencing.

2 That's the common, let's just call it strip-down reality.

3 But in this case it's not. Because had she handled
4 that dispute with BPHN without any legal basis whatsoever,
5 unilaterally decided to stop paying the rent two years ago and
6 then first they did and then the city said, you, no illegal
7 basis whatsoever, stopped paying the rent, but still expected
8 the hundreds of people we are housing in these buildings to be
9 cared for as if the contract is in full effect, when that
10 happened, Ms. Levin had a lot more options than what she
11 availed herself of. She could have started and ended the
12 entire dispute adding millions and millions of dollars of
13 arrears and late fees and penalties to what that settlement had
14 be to. She could have terminated the lease immediately and
15 forced the city's hand. She didn't do any of those things
16 because she knew that by doing any of that, it would increase
17 the amount of money that the city would have to pay to service
18 this homeless population, and she did not want that, and that's
19 why she took over a million dollars out of her pocket to pay
20 the landlord while BPHN and New York City sat on the payments
21 for no legal reason whatsoever.

22 Mr. Buss, who is in the audience today, was begging
23 me, let me start an Article 78. Let me bring up some kind of
24 mandamus action against the city. They can't do this. But
25 that's not what Ms. Levin wanted. She kept the contract going.

1 She kept the lease in effect out of her own pocket.

2 And, finally, the settlement was reached weeks ago,
3 where not only was only the base amount of rent arrears paid,
4 no penalties or interest of any kind, but the contract is now
5 continuing for the rest of its life, the amount of years, and
6 by now it's a far-below-market contract rate for these
7 services.

8 I think it's important that your Honor understand that
9 nobody would have begrudged her if she had gone for more money,
10 but she didn't want to do that, and we could have had more
11 money for forfeiture today from this settlement if we wanted,
12 but we didn't think it was right.

13 Subject to your questions, your Honor, I think that
14 kind of beats the horse dead.

15 THE COURT: Thank you.

16 Ms. Levin, if you will rise.

17 Before I formally impose sentence, Mr. Farkas, did you
18 wish to lodge any objections to sentencing?

19 MR. M. FARKAS: No, your Honor.

20 THE COURT: Mr. Abramowicz.

21 MR. ABRAMOWICZ: No, your Honor.

22 THE COURT: I hereby find that the total offense level
23 is 19. The criminal history category is I. The guideline
24 range is 30 to 37 months.

25 Pursuant to the Sentencing Reform Act of 1984, it is

the judgment of this Court that the defendant, Sheina Levin, is hereby sentenced to time served. In addition to time served, she shall be placed on supervised release for a period of two years with the conditions recommended by the probation department, namely, the mandatory conditions set forth on page 32 of the presentence report plus the standard conditions 1 through 12 set forth on pages 32 and 33 of the presentence report.

In regard to the mandatory conditions, I am suspending the mandatory drug testing requirement. She shall refrain from any unlawful use of a controlled substance, but I am suspending the requirement to submit to one drug test within 15 days of release and at least two periodic drug tests thereafter.

Within 72 hours of the entry of the judgment in this case, Ms. Levin shall report in person to the probation office in the Southern District of New York.

In addition to the standard and mandatory conditions, I am imposing the special conditions that are set forth on pages 33 of the presentence report.

Special condition 1 is providing the probation officer with access to all requested financial information.

Special condition number 2 is participation in an outpatient mental health treatment program approved by the probation office which shall include psychotherapy.

Special condition number 3 is that she shall not incur

new credit charges or open additional lines of credit without the approval of her probation officer.

I am adding special condition number 4. Special condition number 4 is that she shall serve nine months on home detention where she is restricted to her residence at all times except for employment, education, religious services, medical, substance abuse, or other mental health treatment, attorney visits, court appearances, court-ordered obligations, or any other activity preapproved by her probation officer. The home detention condition for nine months shall include -- I'm sorry. The way to phrase that is, the first year of supervised release shall include 20 hours of work per week for the first year in programs to be approved by her probation officer.

The recommendation of the Court is to accept the recommendations of the Aleph Institute for 10 hours per week of volunteer work with the Urban Outreach Center in its location on First Avenue in Manhattan, and 10 hours per week of work for Housing Plus in its efforts to place women in permanent housing in the Trinity Church location or out of the Trinity Church location. That is 20 hours a week of community service for the first year of supervision.

Defense, is it clear? Let me make sure everybody understands. Two years of supervised release of which nine months is on home detention and the first year of which is 20 hours of volunteer work per week for nine months with the

1 recommendation of the Court for placement, as I say, at the
2 Urban Outreach Center and Housing Plus. But that's subject to
3 approval by the probation department.

4 MR. M. FARKAS: Just so I understand, your Honor, any
5 other activities reviewed and approved by the probation
6 department on home detention --

7 THE COURT: Absolutely. Including, as I say,
8 employment, so she can go about her job.

9 MR. M. FARKAS: We will review care responsibilities
10 with the probation department.

11 THE COURT: Yes, exactly.

12 MR. M. FARKAS: Thank you, sir.

13 THE COURT: I am not imposing a fine because I find
14 Ms. Levin lacks the ability to pay a fine after taking into
15 account the presentence report and her family responsibilities.
16 I am imposing restitution, and I am signing the order of
17 restitution here. Let me read it.

18 I take it has been consented to, is that correct, sir?

19 MR. M. FARKAS: Yes, your Honor.

20 THE COURT: It provides for restitution in the total
21 amount of \$838,808.78 to the victim, which is the Bronx Parent
22 Housing Network, Inc. It's joint and several with victim
23 Rivera in 21 CR 221. The payment instructions are in the order
24 that I'm signing. I have signed that order.

25 I am going to direct that restitution be paid within

1 15 days of the entry of the judgment because I understand that
2 there is already an escrow, \$814,013, that's owed to Ms.
3 Levin's company and is in escrow, plus she is holding in escrow
4 an additional \$265,000. By my calculation, that's more than
5 the \$838,880.78 that is the restitution order. So I'm
6 directing that restitution be fully paid by this defendant
7 within 15 days of the entry of the judgment.

8 Has a preliminary order of forfeiture been entered,
9 Mr. Farkas?

10 MR. M. FARKAS: Yes, it has.

11 THE COURT: Government, Mr. Abramowicz.

12 MR. ABRAMOWICZ: Yes, your Honor.

13 THE COURT: It's in the sum of \$790,835.06?

14 MR. ABRAMOWICZ: Yes, your Honor.

15 THE COURT: I am imposing that forfeiture order, and
16 upon entry of the judgment my understanding is that the
17 preliminary order becomes a final order.

18 I hereby order Ms. Levin to pay to the United States a
19 special assessment of \$100, which is due immediately. My
20 sentence would be the same even if the guidelines were offense
21 level of 78, criminal history category I, and a guideline range
22 of 24 to 30.

23 This is a substantial variance, Ms. Levin. I am sure
24 Mr. Farkas and perhaps Mr. Abramowicz will explain that to you.
25 I think the substantial variance is appropriate, in light of

1 your lifelong charitable efforts, the fact that this is your
2 first felony, first crime, your sincere attempts to cooperate,
3 your early acceptance of responsibility, and I do think it's
4 quite appropriate.

5 Mr. Farkas, do you know of any legal reason why this
6 sentence should not be imposed as I have stated it?

7 MR. M. FARKAS: No, your Honor.

8 THE COURT: Mr. Abramowicz.

9 MR. ABRAMOWICZ: If I could just clarify one thing,
10 your Honor.

11 THE COURT: Yes.

12 MR. ABRAMOWICZ: Because we have seen some complaints
13 in other cases about community service requirements, it seems
14 to me that the community service requirement here is completely
15 appropriate, in part because it was actually requested by the
16 defense as an alternative to other components of sentencing,
17 and therefore there cannot be any error that can be complained
18 of later by the defense. If we could just put that on the
19 record.

20 THE COURT: What do you want me to put on the record?

21 MR. ABRAMOWICZ: I suppose just ask the defense
22 whether there is any objection to the community service
23 component.

24 THE COURT: Let me make it lucid.

25 Home detention is for nine months. Supervised release

1 is for two years. For the first year she is to perform 20
2 hours a week of community service. I have recommended two
3 programs that in turn were recommended by the defense. They
4 are not to be supervised by Aleph. It's to be supervised by
5 the probation department. Aleph is to have no role in it.
6 It's between the court, probation office for the Southern
7 District of New York, and the defendant. Is that clear, sir?

8 MR. ABRAMOWICZ: Yes, your Honor, I think it's clear.
9 I just wanted to clarify that the defense has no objection just
10 to the quantity.

11 THE COURT: Does the defense have any objection to
12 that ruling?

13 MR. M. FARKAS: It does not, your Honor. Perhaps I
14 should just ask for clarification. I don't want Aleph to have
15 any supervisory responsibility, but I believe that they will
16 probably be able to inform the probation department with the
17 nature of the programs if probation wants that information.

18 THE COURT: The probation department can ask anybody
19 about anything it wants.

20 MR. M. FARKAS: Very well.

21 MR. ABRAMOWICZ: Nothing else from the government.

22 THE COURT: I hereby order the sentence to be imposed
23 as I have stated it.

24 Government, is there a limited waiver of appeal rights
25 in the plea, and is it 37 and below?

1 MR. ABRAMOWICZ: Yes, your Honor.

2 THE COURT: Ms. Levin, you have the right to appeal
3 the sentence I have just imposed on you. If you cannot pay the
4 cost of an appeal, you have the right to apply for leave to
5 appeal *in forma pauperis*. I do wish to inform you that in your
6 plea agreement you agreed to waive the right to appeal the
7 sentence, and you agreed to waive the right to collaterally
8 attack the sentence if I sentenced you to 37 months or fewer
9 months. In fact I have sentenced you to time served, so it's
10 very much below 37 months.

11 If you make a request, the Clerk of Court will prepare
12 and file a notice of appeal on your behalf immediately.

13 Do you understand your appeal rights?

14 THE DEFENDANT: Yes, I do.

15 THE COURT: Mr. Farkas, if Ms. Levin wishes to appeal,
16 all she has to do is tell you that. In any event, I instruct
17 you to file a notice on her behalf.

18 Do you understand, sir?

19 MR. M. FARKAS: Yes, your Honor.

20 THE COURT: Any open counts or underlying instruments?

21 MR. ABRAMOWICZ: No, your Honor.

22 THE COURT: Ms. Levin, I don't think I need to tell
23 you anything. You've had an admirable life of service. I
24 expect that will continue. I think you do understand the
25 nature of the crime. I don't want to belittle it. It's

1 substantial and it does impact people's faith in governmental
2 services.

3 You clearly have the support of your community. For
4 the record, there are a substantial number of people in this
5 courtroom. And, again, all of those letters, scores and scores
6 of letters were quite laudatory. You will be OK. I have no
7 doubt I won't see you here again.

8 Good luck to you. Thank you.

9 (Adjourned)